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# The North Carolina State Bar

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# THE NORTH CAROLINA STATE BAR

KEMP D. BATTLE, *Editor*

The spring meeting of the Council of the North Carolina State Bar was held in the supreme court room, Raleigh, on April 15, 1938. President Rose, Vice-President Hutchins, Secretary London and nineteen of the twenty-one district councillors were present.

On recommendation of the executive committee an appropriation of \$125.00 was made to the board of law examiners for the purpose of having compiled and bound former examinations for future use of the board.

Mr. Julius C. Smith of Greensboro was re-elected as a delegate from the North Carolina State Bar to the House of Delegates of the American Bar Association.

A report was received from the committee to make nominations to fill vacancies upon the board of law examiners. Mr. B. T. Ward, a member of the board, had signified his desire to retire at the expiration of his present term and Judge C. E. Thompson had resigned upon his appointment to the position of Superior Court Judge of the First Judicial District. A committee of the council was appointed at the January meeting to make two nominations for each vacancy. The persons nominated were Messrs. H. G. Hudson and Irving E. Carlyle, both of Winston-Salem, for one vacancy, and Messrs. Kenneth O. Burgwyn of Wilmington and John H. Anderson, Jr., of Raleigh for the other vacancy. In making the report, the committee transmitted also a resolution received from the Durham Junior Bar Association requesting the council to consider the advisability of appointing to the board of law examiners one of the younger members of the legal profession in the state. Similar suggestions had been received from the deans of the three approved law schools. Upon ballot Messrs. Irving E. Carlyle and Kenneth O. Burgwyn were elected.

A petition for restoration of a license to practice law was received from Mr. E. H. Smith of Brunswick County and his cause was presented by his counsel, Mr. R. E. Sentelle. After prolonged hearing and discussion the petition was denied.

The grievance committee made recommendation for dismissal of charges which had been filed against certain attorneys and reported that further investigation was being made as to other complaints.

The matter of the election of a full time secretary was postponed to the July meeting.

Report was received from the trial committee appointed to hear charges filed against Mr. B. Ray Olive, of Durham. The trial committee had made findings of fact and conclusions of law and had recommended that the respondent be suspended from the practice of law for a period of twelve months. Exceptions were taken by the respondent and his cause argued by Mr. J. Elmer Long. The prosecuting attorneys were Messrs. Edward L. Cannon of Durham and Benj. W. Parham of Oxford. After full hearing and a discussion the findings of fact and conclusions of law of the trial committee were adopted and the respondent was ordered suspended from practice for the period recommended.

The committee appointed to hear charges filed against Phillip A. Escoffery, of Durham, made report with findings of fact and conclusions of law upon which recommendation was made that the respondent be disbarred. Exceptions to the report were submitted and argued by Mr. R. O. Everett of Durham. Messrs. Cannon and Parham were prosecutors in this case also. After full hearing the findings of fact and conclusions of law of the trial committee were adopted and the respondent was ordered disbarred from the practice of law. Both of these cases involved alleged misuse of funds of clients received in the capacity of attorney.

The committee on unauthorized practice of law reported that a number of complaints and inquiries had been received concerning the practice of various production credit associations in having examination of records made by employees as to liens and mortgages against properties tendered to associations as a basis for credit. It was reported that in many cases such examinations were made by persons not licensed to practice law and that fees were charged to the borrowers for such services. It was also reported that the attorney general had given an opinion that the practice referred to constituted the practice of law. The council went on record as concurring in the opinion expressed by the attorney general and further expressing the view that the charging of fees for such service was a violation of C. S. §199 (a).